

Christine C. Capuyan (SBN 281036)  
christine.capuyan@wilmerhale.com  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
950 Page Mill Road  
Palo Alto, CA 94304  
Telephone: (650) 858-6000  
Facsimile: (650) 858-6100

Joseph J. Mueller (*pro hac vice*)  
joseph.mueller@wilmerhale.com  
Sarah B. Petty (*pro hac vice*)  
sarah.petty@wilmerhale.com  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
60 State Street  
Boston, MA 02109  
Telephone: (617) 526-6000  
Facsimile: (617) 526-5000

Nina S. Tallon (*pro hac vice*)  
nina.tallon@wilmerhale.com  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
1875 Pennsylvania Avenue NW  
Washington, DC 20006  
Telephone: (202) 663-6000  
Facsimile: (202) 663-6363

*Attorneys for Defendant and  
Counterclaim-Plaintiff McAfee, Inc.*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

TVIIM, LLC,

Plaintiff,

v.

MCAFEE, INC.,

Defendant.

**Civil Action No. 3:13-CV-04545-HSG**

**DECLARATION OF CHRISTINE  
CAPUYAN IN SUPPORT OF  
MCAFEE'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
(MCAFEE'S MOTION IN LIMINE NO.  
1 RE: IRRELEVANT FINANCIAL  
INFORMATION)**

1 I, Christine Capuyan, declare and state as follows:

2 1. I am an attorney at the law firm of Wilmer Cutler Pickering Hale & Dorr, counsel  
3 for McAfee, Inc. ("McAfee") in the above-captioned litigation. I am licensed to practice law in  
4 the State of California. I am familiar with the facts set forth herein, and, if called as a witness, I  
5 could and would testify competently to those facts.

6 2. Pursuant to Local Rules 7-11 and 79-5, I submit this Declaration in support of  
7 McAfee's Administrative Motion to File Documents under Seal and in response to the Court's  
8 Order Denying Motions to Seal (Dkt. 184), to confirm that certain portions of Exhibits 2-3 to  
9 the Declaration of Joseph J. Mueller ("Mueller Declaration") in Support of McAfee's Motion in  
10 Limine No. 1 re: Irrelevant Financial Information ("McAfee's MIL No. 1"), as well as certain  
11 portions of McAfee's MIL No. 1, are confidential and sealable.

12 3. The requested relief is necessarily and narrowly tailored to protect the  
13 confidentiality of the information contained in the following exhibits.

14 4. McAfee will lodge with the court and serve on plaintiff TVIIM, LLC an  
15 unredacted copy of the exhibits referenced in this declaration, highlighting in green the specific  
16 portions of each page in each exhibit to which McAfee maintains a claim of confidentiality.  
17 Should the court grant McAfee's Motion to Seal the unredacted copy of these exhibits (Dkt.  
18 163), McAfee will publicly file redacted versions of these exhibits.

19 5. **Exhibit 2.** Exhibit 2 to the Mueller Declaration contains excerpts from the  
20 January 16, 2015 Expert Report of Bruce McFarlane, TVIIM's damages expert in this litigation.  
21 TVIIM designated this report as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the  
22 Protective Order (Dkt. 62). Certain portions of page 85 discuss or otherwise reference highly  
23 confidential McAfee patent, software, and/or technology licensing information. This  
24 information could be used by McAfee's competitors to McAfee's disadvantage, particularly  
25 because it reveals McAfee's licensing history. It is McAfee's practice and policy to maintain  
26 the confidentiality of this information and its disclosure would be harmful to McAfee.

6. **Exhibit 3.** Exhibit 3 to the Mueller Declaration contains excerpts from the February 16, 2015 Expert Report of Lance E. Gunderson, McAfee's damages expert in this litigation. McAfee designated this report as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Protective Order (Dkt. 62). Certain portions of pages 32-33 discuss or otherwise reference highly confidential McAfee patent, software, and/or technology licensing information. This information could be used by McAfee's competitors to McAfee's disadvantage, particularly because it reveals McAfee's licensing history. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

7. McAfee's MIL No. 1 discusses highly confidential information relating to McAfee's patent, software, and/or technology licensing history. This information is discussed at the following pages and lines:<sup>1</sup>

- 2:2-6, 26-27
- 4:18-20
- 5:7-8, 13-15

This information could be used by McAfee's competitors to McAfee's disadvantage. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

<sup>1</sup> McAfee has already publicly filed a redacted copy of its MIL No. 1 at Dkt. 165, and McAfee has already lodged with the Court and served TVIIM with an unredacted copy of this MIL No. 1, highlighting the specific portions cited here. McAfee accordingly does not intend to lodge with the Court nor serve on TVIIM another unredacted copy of this MIL No. 1.

1 I declare under the penalty of perjury under the laws of the United States of America that  
2 the forgoing is true and correct to the best of my knowledge. Executed this 18<sup>th</sup> of June, 2015 at  
3 Palo Alto, California.

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6 Dated: June 18, 2015

By: /s/ Christine Capuyan

Christine Capuyan

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Wilmer Cutler Pickering Hale and Dorr LLP  
950 Page Mill Road  
Palo Alto, CA 94304

**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury under the laws of the United States that a true and correct copy of the above and foregoing document has been served on June 18, 2015, to all counsel of record who are deemed to have consented to electronic service via the Court's ECF system per Civil Local Rule 5-1.

Dated: June 18, 2015

/s/ Christine Capuyan

Christine Capuyan

Wilmer Cutler Pickering Hale and Dorr LLP  
950 Page Mill Road  
Palo Alto, CA 94304